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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,789	12/24/2001	Bill J. Peck	10010410-1	3956

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EXAMINER

STONER, KILEY SHAWN

ART UNIT

PAPER NUMBER

1725

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/035,789

Applicant(s)

PECK, BILL J.

Examiner

Kiley Stoner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 20-45 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 is/are allowed.
- 6) ☒ Claim(s) 46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-46 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4-1-02 4-22-02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I (claims 1-9 and 46) in the reply filed on 6-1-04 is acknowledged. The traversal is on the ground(s) that amended claims 20-45, which ultimately depend from claim 1 or claim 4 as recited in the amended claims, be included in Group I, thereby obviating the need for Group II, and that Claims 20-45 be examiner together with claims 1-19 and 46. This is not found persuasive because the apparatus as claimed can still be used to perform a materially different process as recited by the restriction requirement of 4/27/04.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 46 is rejected under 35 U.S.C. 102(e) as being anticipated by Koster et al. (6,730,517 B1). Koster et al. teaches a mechanism for moving a support into and out of a chamber and for positioning said support relative to a device for dispensing reagents

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to a surface of said support to form an array of biopolymers features thereon (column 2, lines 18-33; column 7, lines 14-20; column 8, lines 20-40; column 10, lines 61-64), said mechanism comprising a holding element for said support wherein said holding element is a low drag body having Reynolds numbers that are less than about 3000 (column 2, lines 34-42; column 7, lines 40-51; column 9, lines 61-65; column 14, lines 43-48), and a controller for controlling the movement of said mechanism for moving said support (column 9, lines 40-60; column 10, lines 37-51 and 61-64). Laminar flow corresponds to a Reynolds Number of 2000-3000 (note the definition of Reynolds Number in Perry's Chemical Engineers' Handbook Sixth Edition, 5-6).

***Allowable Subject Matter***

Claims 1-19 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art of record does not teach or suggest either alone or in combination an apparatus for conducting chemical reactions, an apparatus for synthesizing a plurality of biopolymers, and an apparatus for synthesizing an array of biopolymers as recited by claims 1, 4 and 15 respectively, particularly the opening in the chamber for the exit of the gas, wherein the opening has the contracting section, the section having substantially constant cross-sectional area and the diffusing section through the opening.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art of record that is cited as of interest is presented on the form-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiley Stoner whose telephone number is (571) 272-1183. The examiner can normally be reached on Monday-Thursday (7:30 a.m. to 6:00 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on Monday-Friday at (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kiley Stoner A.U. 1725

*Kiley Stoner* 6/22/04